

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

Administrative Proceeding
File No. 3-16184

-----	X
	:
	:
In the Matter of	:
	:
JORDAN PEIXOTO,	:
	:
Respondent.	:
	:
-----	X

DIVISION OF ENFORCEMENT'S MOTION TO DISMISS

Pursuant to SEC Rules of Practice 154 and 401, the SEC Division of Enforcement ("the Division") respectfully requests that the Securities and Exchange Commission ("Commission") (1) dismiss this administrative proceeding -- which charges respondent Jordan Peixoto with insider trading -- due to the unavailability of two essential witnesses for the trial in this case scheduled for March 16, 2015; and (2) stay this proceeding pending consideration of this motion. Division counsel conferred today with counsel for respondent Peixoto, who concurs in both of these requests.

On September 30, 2014, the Commission issued its Order Instituting Proceedings in this case ("OIP"). The OIP alleges that, on December 19, 2012, respondent Peixoto traded securities of Herbalife Ltd. while in possession of material non-public information concerning an imminent announcement by renowned activist investor William Ackman regarding his negative view of Herbalife. Peixoto allegedly received this inside information from his friend, Filip Szymik, who had learned it from his roommate,

Mariusz Adamski -- an analyst employed by Ackman. Thus, the three principal witnesses to the events alleged in the OIP are respondent Peixoto, his friend Szymik, and Szymik's roommate, Adamski. Recently, however, both Szymik and Adamski became unavailable to testify at the March 2015 trial in this case.

Szymik and Adamski are childhood friends who grew up together in Poland. In December 2012, at the time of the events alleged in the OIP, Szymik and Adamski were roommates in New York, N.Y., and they continued to live in New York until the institution of this administrative proceeding. Shortly after this administrative proceeding was commenced against Peixoto, Szymik's counsel informed the Division that Szymik was leaving the United States and returning to Poland (where he currently resides). On December 8, 2014, the Division learned from Adamski's counsel that he, too, had returned to Poland. Counsel for Adamski and Szymik have informed the Division that neither has any immediate intention of returning to the United States, and that both will be unavailable to testify at the March 2015 trial in this case. Furthermore, the Division is unable to compel either Szymik or Adamski to testify at trial, either in the United States or Poland.¹

Because both Szymik and Adamski were central participants in the events alleged in the OIP and will not be available to testify, the Division respectfully requests that the Commission dismiss this administrative proceeding.

In addition, the Division respectfully requests that the Commission stay this proceeding pending its consideration of this motion. Trial in this case is scheduled for

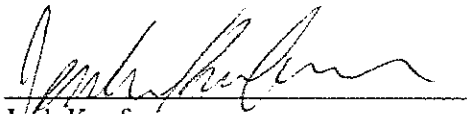
¹ In addition, Szymik has supplied a declaration stating that, if compelled to testify at trial, he will assert his Fifth Amendment privilege. Adamski's counsel has informed the Division that he also would consider doing so if compelled to testify.

March 16, 2015, and additional pre-trial deadlines are more imminent. For example, motions for summary disposition are due this Wednesday, December 17, and Peixoto's counsel has informed the Court and Division that he intends to file such a motion. The Division therefore requests an immediate stay of this proceeding to avoid any unnecessary litigation.

CONCLUSION

For the foregoing reasons, the Division respectfully requests that the Commission (1) dismiss this administrative proceeding, captioned In the Matter of Jordan Peixoto, Admin. Proc. File No. 3-16184; and (2) stay this proceeding pending its consideration of this motion.

Respectfully submitted,



Jack Kaufman

Sheldon Mui


Attorneys for the Division of Enforcement
Securities and Exchange Commission
200 Vesey Street, 4th Floor
New York, New York, 10281
Tel. (212) 336-0106
kaufmanja@sec.gov

December 15, 2015

CERTIFICATE OF SERVICE

I, Jack Kaufman, certify that on this 15th day of December, 2014, I caused true and correct copies of the Division of Enforcement's Motion to Dismiss to be filed and served by United Parcel Service and electronic mail on:

Derrelle M. Janey, Esq.
Gottlieb & Gordon
111 Broadway
Suite 701
New York, NY 10006
djaney@gottliebgordon.com
(Counsel for Respondent Jordan Peixoto)



Jack Kaufman